



Summary of Contents

2.1	Introduction and Scope Note	1
2.2	Equipment Violations	2
2.3	Overtaking or Passing	6
2.4	Parking, Stopping, or Standing.....	9
2.5	Railroad Crossings.....	14
2.6	Right-of-Way or Failure to Yield	17
2.7	Safety Belt Violations	21
2.8	Speed Violations.....	25
2.9	Stop and Go, Signs and Signals	35
2.10	Turning and Signaling	39
2.11	Wrong Side or Wrong Way	42
2.12	Careless Driving	45
2.13	Coasting	47
2.14	Driving Over Fire Hose	48
2.15	Failing to Change Address on Registration or Title	50
2.16	Failing to Stop for School Bus	51
2.17	Following a Fire Truck Too Closely	53
2.18	Interference with View, Control, or Operation of Vehicle.....	54
2.19	No Proof of Insurance	56
2.20	No Proof of Registration	58
2.21	Operating a Vehicle in Violation of Graduated License Requirements	60
2.22	Failing to Change Address on Driver's License.....	62

2.1 Introduction and Scope Note

The Michigan Vehicle Code contains hundreds of traffic offenses. This chapter includes many of those offenses that are classified as civil infractions. The discussion in this chapter of each civil infraction includes:

- the name of the offense;
- quotations of the actual statute, or significant parts thereof;
- the elements of the offense;
- civil sanctions;
- licensing sanctions; and
- issues of importance regarding that offense.

This chapter does not contain motor carrier violations or civil infractions that may be committed only by operation of a motorcycle. See MCL 257.656–257.661a; MSA 9.2356–9.2361(1) (civil infractions applicable to operation of motorcycles). Other provisions may also govern the operation of motorcycles. See MCL 257.656(4); MSA 9.2356(4).

2.2 Equipment Violations

A. General Rules for Equipment Violations

“A person shall not drive or move or the owner shall not cause or knowingly permit to be driven or moved on the highway a vehicle or combination of vehicles which is in such an unsafe condition as to endanger a person, or which does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in sections 683 to 714a, or which is equipped in a manner in violation of sections 683 to 714a. A person shall not do an act forbidden or fail to perform an act required under sections 683 to 714a.”

MCL 257.683(1); MSA 9.2383(1).

Sections 683 to 714a contain provisions with respect to lighting equipment, brakes, mirrors, windshields and windshield wipers, horns and other warning devices, muffler and exhaust systems, tires, etc. MCL 257.683–257.714a; MSA 9.2883–9.2414(1).

“Except as otherwise provided in section 698 or 707d,* a person who violates a provision of sections 683 to 714a with respect to equipment on vehicles is responsible for a civil infraction.” MCL 257.683(5); MSA 9.2383(5).

As a general rule, it is a valid exercise of the police power to require motor vehicles to be equipped with various items of safety equipment. The MVC prohibits a person from operating a vehicle in an unsafe condition, or which is not properly equipped as required by law. MCL 257.683(1); MSA 9.2383(1). If a person violates this provision he or she is responsible for a civil infraction. Aside from the statute, the driver’s knowledge of the condition of the vehicle and the area in which it is operated have bearing on the degree of care to be exercised. For example, if the headlights do not work, the vehicle should not be driven. *Grant v Richardson*, 276 Mich 151, 156–57 (1936).

B. Equipment Violations

Equipment violations* include:

- Brakes—MCL 257.705; MSA 9.2405;
- Bumper or other energy absorption system—MCL 257.710c; MSA 9.2410(3);
- Cowl, running board, or back-up lights—MCL 257.698; MSA 9.2398;
- Device causing smoke or flame—MCL 257.682a; MSA 9.2382(1);

*§698 contains a misdemeanor offense for misuse of police or emergency lights, and §707d contains noise restrictions, some of which are misdemeanor offenses.

*See also MCL 257.658a; MSA 9.2358(1) (requirements for seats and footrests on motorcycles).

- Failing to maintain equipment—MCL 257.683; MSA 9.2383;
- Flag, light, or lantern on projecting load—MCL 257.693; MSA 9.2393;
- Flares or warning devices (trucks or buses)—MCL 257.712; MSA 9.2412;
- Headlights (defective, improper, or none)—MCL 257.683–257.686; MSA 9.2383–9.2386, MCL 257.695; MSA 9.2395, MCL 257.699; MSA 9.2399, and MCL 257.701; MSA 9.2401;
- Headlights (failure to dim)—MCL 257.700; MSA 9.2400;
- Horn, siren—MCL 257.706; MSA 9.2406;
- Mirror and obstruction of view—MCL 257.708; MSA 9.2408, and MCL 257.709; MSA 9.2409;
- Mud flaps (trucks)—MCL 257.714a; MSA 9.2414(1);
- Muffler or exhaust system—MCL 257.707; MSA 9.2407;
- Obstruction to view or window—MCL 257.709; MSA 9.2409;
- Parking lights—MCL 257.694; MSA 9.2394;
- Plates (visibility)—MCL 257.686; MSA 9.2386;
- Reflectors and clearance markers—MCL 257.687; MSA 9.2387, MCL 257.690; MSA 9.2390, and MCL 257.691; MSA 9.2391;
- Safety chains (towing)—MCL 257.721(3); MSA 9.2421(3);
- Safety glass in bus—MCL 257.711; MSA 9.2411;
- Slow moving vehicles, lights—MCL 257.688(g); MSA 9.2388(g), and MCL 257.703; MSA 9.2403;
- Spot lights and fog lights—MCL 257.696; MSA 9.2396;
- Tail lights (defective, improper, or none)—MCL 257.686; MSA 9.2386, and MCL 257.695; MSA 9.2395;
- Tires—MCL 257.710; MSA 9.2410;
- Trailer, trailer hitch, towing equipment—MCL 257.721; MSA 9.2421;
- Turn signals (defective, improper, or none)—MCL 257.697–257.697a; MSA 9.2397–2397(1);
- Warning lights, warning devices—MCL 257.713; MSA 9.2413; and
- Windshield wipers/washers (defective, improper, or none)—MCL 257.683; MSA 9.2383, MCL 257.708a; MSA 9.2408(1), and MCL 257.709; MSA 9.2409.

C. Reasonable Grounds Required to Stop and Inspect Vehicle

“A police officer on reasonable grounds shown may stop a motor vehicle and inspect the motor vehicle, and if a defect in equipment is found, the officer may issue the driver a citation for a violation of a provision of sections 683 to 714a.” MCL 257.683(2); MSA 9.2383(2). This statute is, of course, subject to constitutional limitation on stops and searches.

D. Exempted Vehicles

“[S]ections 683 to 714a with respect to equipment shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors, except as specifically provided” MCL 257.683(4); MSA 9.2383(4).

E. Elements of an Equipment Violation

1. Defendant drove or moved, or caused or knowingly permitted another to drive or move, a motor vehicle on a highway; and
2. The motor vehicle was in such an unsafe condition as to endanger a person, or had defective equipment, improper equipment, or was not equipped as required by the MVC.

MCL 257.683(1); MSA 9.2383(1).

F. Civil Sanctions for Equipment Violations

1. Standard civil sanctions for equipment violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

2. Special civil sanction provisions for equipment violations

The court shall waive the civil fine and costs for a violation of defective equipment, written under MCL 257.683; MSA 9.2383, on receipt of certification by a law enforcement agency that repair was made before

the appearance date on the citation. MCL 257.907(9); MSA 9.2607(9). If the citation for defective equipment is written under any other section, the automatic waiver does not apply.

G. Licensing Sanctions for Equipment Violations

No points are assessed for defective equipment. MCL 257.320a(4); MSA 9.2020(1)(4). The finding of responsibility is not reported to the Secretary of State. The Secretary of State has interpreted “defective equipment” to include improper equipment and missing equipment.

However, 2 points are assessed for improper use of lights.* This includes driving with bright lights, driving without lights, failure to dim lights, glaring lights, and too many lights lit. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include improper use of lights. See MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).

*See, however, the discussion of the *Pitts* case in “Issues,” below.

H. Issues

In *People v Pitts*, 222 Mich App 260 (1997), the defendant was found responsible for a violation of §709 of the Michigan Vehicle Code for having tinted film on the front side windows of his car. The court assessed two points against defendant’s driver’s license. The Court of Appeals held that assessment of points for the violation was error. *Id.*, at 271. Violation of §709 is an “equipment violation,” for which no points may be assessed. In reaching this conclusion, the Court of Appeals also sought to distinguish equipment violations and moving violations:

“The prosecutor further argues that a violation of §709 is by definition a moving violation because the language contained within the section states that ‘[a] person shall not *drive* a motor vehicle with any of the following’ We disagree. The use of the word *drive* does not convert a violation of §709 into a moving violation in the face of the legislative scheme of which §709 is a part.

“Under the applicable statutory sections (683 to 714a), there is language stating that the vehicle shall not be *driven* or *operated* with any of the enumerated defects. MCL 257.700; MSA 9.2400 (multiple-beam headlights), MCL 257.705; MSA 9.2405 (defective brakes), MCL 257.706; MSA 9.2406 (defective horn), MCL 257.707b; MSA 9.2407b; MSA 9.2407(2) (defective exhaust system). That being the case, under the prosecution’s rationale, operating a car with a defective horn or brakes should be a moving violation subject to the assessment of two points

rather than an equipment violation, because the applicable section states that the vehicle shall not be *operated* in such a manner. This reading would emasculate the statutory handling of equipment and moving violations. . . .”

Id., at 270–71.

The provisions of MCL 257.709; MSA 9.2409, that prohibit adding tinted film to car windows but allow factory-installed tinting or tinting pursuant to a doctor’s order do not violate the Equal Protection clauses of the Michigan and federal constitutions. *People v Pitts*, 222 Mich App 260, 271–75 (1997).

2.3 Overtaking or Passing

A driver is not compelled to drive behind another, nor does he or she have an exclusive right to drive ahead of another. The driver behind is entitled to pass ahead when it is safe to do so. Certain duties are imposed on the driver of the overtaking vehicle; other duties are imposed on the driver of the vehicle being overtaken.

A. Duties of Driver of Overtaking Vehicle

1. The responsibility for safe passing rests primarily with the overtaking driver. The attempt to pass must be made under safe conditions and properly managed. “The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left of that vehicle, and when safely clear of the overtaken vehicle shall take up a position as near the right-hand edge of the main traveled portion of the highway as is practicable.” MCL 257.636(1)(a); MSA 9.2336(1)(a).
2. Generally, it is unlawful to pass on the right. It is also unlawful to drive off the pavement or the “main traveled” portion of the roadway. The “main traveled” portion is delineated on the right by a solid white line. Only under conditions permitting the overtaking and passing in safety, in one or more of these instances, is passing on the right permitted:
 - when the vehicle overtaken is making or about to make a left turn, or
 - when vehicles are moving in substantially continuous lanes of traffic on one-way streets, or on a street having sufficient width for 2 or more lines of traffic moving in the same direction.

MCL 257.637; MSA 9.2337.

3. If the driver of the vehicle behind had reason to believe that the driver of the vehicle ahead was to make a left-hand turn, either because of signals, slowing down, or for other reasons, the driver of the vehicle behind attempting to overtake and pass the vehicle ahead must signal his or her intention to do so. *Decker v Woffort*, 360 Mich 644, 648–49 (1960).

B. Duties of Driver of Overtaken Vehicle

1. “Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.” MCL 257.636(1)(b); MSA 9.2336(1)(b). In other words, by sounding a warning the driver behind imposes a duty on the driver ahead to yield and move over to the right.
2. Interpreting a similar former statute, the Michigan Supreme Court held that the statute, which provides that “the driver of a vehicle about to be overtaken shall give way to the right, is not necessarily complied with by the mere fact that such vehicle is in its proper half of the road. The statute contemplates that the driver shall move over towards the edge of the road and thus increase the space available to the overtaking vehicle.” *Hetler v Holtrop*, 285 Mich 570, 577 (1938).
3. The driver of the front vehicle should exercise ordinary care for the safety of others in the vehicle behind. If the driver of the front vehicle turns left suddenly, without properly signaling, when the vehicle behind is attempting to pass, that driver may be found responsible for a breach of his or her duty to exercise reasonable care. *Decker v Woffort*, 360 Mich 644, 649–50 (1960).

C. Overtaking and Passing Violations:

Overtaking and passing violations include:

- disobeying “no passing” sign, MCL 257.640; MSA 9.2340;
- failing to give way when overtaken, MCL 257.636; MSA 9.2336;
- following too closely, MCL 257.643; MSA 9.2343;
- improper lane use (multiple lane highway), MCL 257.642; MSA 9.2342;
- improper lane use (truck), MCL 257.634(3); MSA 9.2334(3);
- improper overtaking and passing, MCL 257.636–257.640; MSA 9.2336–9.2340;
- improper passing on hill or curve, MCL 257.639; MSA 9.2339;
- improper passing on right, MCL 257.637; MSA 9.2337;

- improper passing within 100 feet of bridge, viaduct, or tunnel with obstructed view, MCL 257.639; MSA 9.2339; and
- trucks tailgating, MCL 257.643a; MSA 9.2343(1).

D. Civil Sanctions for Overtaking or Passing Violations

1. Standard civil sanctions for overtaking or passing violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(8)–(9); MSA 9.2607(8)–(9).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

E. Licensing Sanctions for Overtaking or Passing Violations

1. 3 points are assessed for improper passing, but not for following too closely, tailgating, or improper lane use. MCL 257.320a(1)(k); MSA 9.2020(1)(1)(k). (See below.) The finding of responsibility is reported to the Secretary of State.
2. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include following too closely, tailgating, and improper lane use. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).
 - 2 points are assessed for following too closely and tailgating. The finding of responsibility is reported to the Secretary of State.

- 2 points are assessed for improper lane use. The finding of responsibility is reported to the Secretary of State.
3. Overtaking or passing violations could also result in the defendant being cited for careless driving and if found responsible, 3 points would be assessed on his or her driver's license. MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i), and MCL 257.626b; MSA 9.2326(2).

2.4 Parking, Stopping, or Standing

The regulatory power of the state legislature with respect to the use of motor vehicles extends to such matters as stopping, standing, and parking. MCL 257.672–257.676; MSA 9.2372–9.2376.

Local authorities may regulate these matters on streets and highways under their jurisdiction; they may also regulate traffic in privately owned parking areas, e.g., shopping center parking, if requested to do so by the owner or the person in charge of general operation and control of the parking area. MCL 257.606(1)(a); MSA 9.2306(1)(a), and MCL 257.942; MSA 9.2642.

The power to regulate implies the power to exact a fee for the cost of such regulation. Local authorities have the right to establish a system of parking meters on their public streets. *Bowers v City of Muskegon*, 305 Mich 676, 681 (1943).

A. General Rules for Parking

The MVC defines parking to mean “standing a vehicle, whether occupied or not, upon a highway, when not loading or unloading except when making necessary repairs.” MCL 257.38; MSA 9.1838.

The first among these stopping, standing, and parking provisions states: “Outside of the limits of a city or village, a vehicle shall not be stopped, parked, or left standing, attended or unattended, upon the paved or main traveled part of the highway, when it is possible to stop, park, or to leave the vehicle off the paved or main traveled part of the highway. Inside or outside of the limits of the city or village, a vehicle shall not be stopped, parked, or left standing, attended or unattended, upon the paved or unpaved part of a limited access highway, except in an emergency or mechanical difficulty. ...” MCL 257.672(1); MSA 9.2372(1).

The statute governing parking on the highway is “self-explanatory and unambiguous.” *Ter Haar v Steele*, 330 Mich 167, 174 (1951).

There is a difference between stopping and parking. Parking is merely one form of stopping and implies something more than a mere temporary stop

for a necessary reason. *Bensinger v Happyland Shows, Inc*, 44 Mich App 696, 702 (1973), and *Sahms v Marcus*, 239 Mich 682, 684–85 (1927).

The MVC further prohibits parking vehicles at certain places; twenty-four different prohibited places are specified in one statute. MCL 257.674; MSA 9.2374.

“A vehicle shall not be parked in ... a clear vision area adjacent to or on a highway right of way.” MCL 257.674a; MSA 9.2374(1).

The MVC also contains several provisions about the manner in which vehicles must be parked. MCL 257.675; MSA 9.2375.

B. Exceptions to Parking, Stopping, and Standing Violations

A person may stop, park, or leave standing a vehicle in an area otherwise prohibited if it is necessary to avoid conflict with other traffic or if the person is otherwise in compliance with the law or the directions of a police officer or traffic-control device. MCL 257.674(1); MSA 9.2374(1).

The doctrine of sudden emergency is unnecessary when a parking violation is alleged. The no parking statute contains its own legal excuse. The statute expressly excepts otherwise prohibited parking when necessary to comply with the law, e.g., a person is required by law to stop at the scene of an accident and exchange certain information. *Mason v Wurth*, 181 Mich App 129, 131 (1989).

A vehicle may be stopped on a highway for various emergency purposes or mechanical difficulties without violating the laws relating to parking. A vehicle is not in violation of a parking provision if it has stopped:

- because of a breakdown, *Russel v Szczawinski*, 268 Mich 112, 115 (1939);
- to render assistance to a disabled vehicle, *Edison v Keene*, 262 Mich 611, 614 (1930);
- to recover a hat that has blown off, *Sahms v Marcus*, 239 Mich 682, 684–685 (1927); or
- to exchange certain information at the scene of an accident, *Mason v Wurth*, 181 Mich App 129, 131 (1989).

C. Parking Violations:

Parking violations include:

- disabled person parking violations—disregarding sign, improper use of handicap ID, plate, or tag, MCL 257.674(1)(s); MSA 9.2374(1)(s), and MCL 257.675(5); MSA 9.2375(5);

- meter violations and metered stall lines, MCL 257.674(1)(v); MSA 9.2374(1)(v);
- parking in clear vision areas, MCL 257.674a; MSA 9.2374(1);
- parking on a highway or limited-access highway, MCL 257.672; MSA 9.2372;
- prohibited parking areas, MCL 257.674; MSA 9.2374; and
- unattended vehicle, MCL 257.676(1); MSA 9.2376(1).

D. Disabled Person Parking

A person who has been issued an ID, plate, or tab for persons with disabilities “is entitled to courtesy in the parking of a vehicle. The courtesy shall relieve the disabled person or the person transporting the disabled person from liability for a violation with respect to parking, other than in violation of this act.” MCL 257.675(6); MSA 9.2375(6).

A law enforcement agency or a local unit of government, and persons other than police officers, who successfully complete a program of training may issue citations for disabled person parking violations designated as civil infractions. MCL 257.675d; MSA 9.2375(4).

A “disabled person” is defined by the MVC as “a person who has 1 or more of the following physical characteristics:

“(a) Blindness. . . .

“(b) Inability to ambulate more than 200 feet without having to stop and rest during any time of the year.

“(c) Loss of use of 1 or both legs or feet.

“(d) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.

“(e) A lung disease

“(f) A cardiovascular disease

“(g) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.”

MCL 257.19a(a)–(g); MSA 9.1819(1)(a)–(g).

“Disabled person” parking violations designated as civil infractions include disregarding a handicap sign, and failing to properly display the handicap ID, plate, or tab. MCL 257.674(1)(s); MSA 9.2374(1)(s).

“A vehicle shall not be parked, except . . . to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic-control device, ... [i]n a parking space clearly identified by an official sign as being reserved for use by disabled persons which is on public property or private property available for public use, unless the individual is a disabled person or unless the individual is parking the vehicle for the benefit of a disabled person. ...” MCL 257.674(1)(s); MSA 9.2374(1)(s).

Violations written under state law require an “official sign.” Violations written under a local ordinance require a sign meeting the specifications in the manual of uniform traffic control devices. Pavement markings mean nothing.

Note: Defendant may argue that notice of disabled person parking was improperly marked, or that a sign was improperly posted. Requirements for proper marking and posting are found in the Michigan manual of uniform traffic control devices available from the Michigan Department of Transportation.

To park in a disabled person parking space, one of the following shall be displayed on the vehicle:

1. a disabled person certificate of identification, issued to a disabled person—on the lower left corner of the front windshield, or hanging from the rear-view mirror.
2. a disabled person registration plate, issued to a disabled person,
3. a similar disabled person certificate of identification issued by another state to a disabled person,
4. a similar disabled person registration plate issued by another state to a disabled person, or
5. a disabled person tab—attached to a special registration plate.

MCL 257.674(1)(s)(i)–(v); MSA 9.2374(1)(s)(i)–(v).

There are several other disabled person parking offenses designated as misdemeanors. See MCL 257.675(15)–(17); MSA 9.2375(15)–(17), and Chapter 3. Misdemeanor disabled person parking offenses include:

- making false statement attesting to disability — MCL 257.675(15); MSA 9.2375(15);
- using disabled person ID, but failing to transport disabled person —MCL 257.675(16)(a); MSA 9.2375(16)(a);

- altering, modifying, or selling disabled person ID — MCL 257.675(16)(b); MSA 9.2375(16)(b);
- copying or forging a disabled person ID, placard, or sticker — MCL 257.675(16)(c); MSA 9.2375(16)(c);
- using a copied or forged ID, placard, or sticker — MCL 257.675(16)(d); MSA 9.2375(16)(d);
- making false statement to obtain disabled person ID, plate, or tab—MCL 257.675(9)(e); MSA 9.2375(9)(e); and
- using a cancelled ID, placard, or sticker, MCL 257.675(16)(f); MSA 9.2375(16)(f).

E. Unattended Vehicle

“A vehicle shall not be allowed to stand on a highway unattended without the brakes being set and the motor of the vehicle being stopped. If the vehicle is standing upon grade, the front wheels of the vehicle shall be turned to the curb or side of the highway.” MCL 257.676(1); MSA 9.2376(1).

F. Parking Within 500 Feet of Fire Apparatus Stopped in Answer to a Fire Alarm

Because of the possible delay in rescue when interfering with a fire apparatus, it is a civil infraction to park within 500 feet of a fire apparatus that has stopped in answer to a fire alarm. The statute says “shall not follow ... or park. “Following” is reported to the Secretary of State; “parking” is not. MCL 257.679; MSA 9.2379, and MCL 257.732(15)(a); MSA 9.2432(15)(a).

G. Civil Sanctions for Parking, Stopping, or Standing violations

1. Standard civil sanctions for parking, stopping, or standing violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).

2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

2. Special civil sanction provisions for parking, stopping, or standing violations

The civil fine for a disabled person parking violation, under MCL 257.674(1)(s); MSA 9.2374(1)(s), shall not be less than \$50 or more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).

H. Licensing Sanctions for Parking, Stopping, or Standing Violations

No points are assessed for parking, stopping, or standing violations. The finding of responsibility is not reported to the Secretary of State. MCL 257.732(15)(a); MSA 9.2432(15)(a).

2.5 Railroad Crossings

A railroad crossing is a place of danger. A driver approaching a railroad track should use ordinary care to avoid personal injury or death to himself or herself and any passengers, or property damage to his or her vehicle, the train, or the equipment belonging to the railroad. The duty of a driver at each grade-crossing depends on the facts and circumstances.

A. General Rules for Railroad Crossings

1. “When a person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver shall stop the vehicle not more than 50 feet but not less than 15 feet from the nearest rail of the railroad, and shall not proceed until the driver can do so safely:
 - “(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
 - “(b) A crossing gate is lowered or a flagman gives or continues to give a signal. . . .
 - “(c) A railroad train approaching within approximately 1,500 feet of the highway crossing gives a signal audible from that

distance, and the train by reason of its speed or nearness to the crossing is an immediate hazard.

“(d) An approaching train is plainly visible and is in hazardous proximity to the crossing.”

MCL 257.667(1)(a)–(d); MSA 9.2367(1)(a)–(d).

2. “A person shall not drive a vehicle through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.” MCL 257.667(2); MSA 9.2367(2).
3. Certain grade crossings may be designated as “stop” crossings and “yield” crossings; and if so designated, appropriate signs are to be erected to notify drivers. The duties of the driver depend on the designation. MCL 257.668(1)–(2); MSA 9.2368(1)–(2).

Stop crossings — “[T]he driver of a vehicle shall stop not more than 50 feet but not less than 10 feet from the railway tracks. The driver shall then traverse the crossing when it may be done in safety.” MCL 257.668(1); MSA 9.2368(1).

Yield crossings — “Drivers of vehicles approaching a yield sign at the grade crossing of a railway shall maintain a reasonable speed based upon existing conditions and shall yield the right-of-way.” MCL 257.668(2); MSA 9.2368(2).

B. Railroad Crossing Violations:

Railroad crossing violations include:

- avoided lowered gates—MCL 257.667(2); MSA 9.2367(2);
- disobeying RR stop sign—MCL 257.668; MSA 9.2368;
- disregarding RR sign—MCL 257.667; MSA 9.2367; and
- school bus failing to stop at RR crossing—MCL 257.1857; MSA 9.3557.

C. School Bus at Railroad Crossing

“[T]he driver of a school bus, before crossing a railroad track at grade, shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail, activate hazard warning lights, turn off all interior switches including fans, heaters, and radios, open the passenger door and driver-side window, and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. . . .” MCL 257.1857(1); MSA 9.3557(1).

A stop need not be made:

1. Where an officer or a traffic-control signal directs traffic to proceed, MCL 257.1857(2); MSA 9.3557(2);
2. At an abandoned track (e.g., track is covered or removed; signs, signals, and other warning devices are removed), MCL 257.1857(3); MSA 9.3557(3); or
3. On a freeway or limited access highway protected by a clearly visible, inactivated signal, gate, or barrier, MCL 257.1857(4); MSA 9.3557(4).

D. Civil Sanctions for Railroad Crossing Violations

1. Standard civil sanctions for railroad crossing violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

E. Licensing Sanctions for Railroad Crossing Violations

1. 2 points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include railroad crossing violations. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).

2. Railroad crossing violations could also result in the defendant being cited for careless driving and if found responsible, 3 points would be assessed on his or her driver's license. MCL 257.626b; MSA 9.2326(2), and MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i).*

*See Section 2.12, below, for a discussion of the offense of careless driving.

2.6 Right-of-Way or Failure to Yield

When adjudicating right-of-way cases, the court should consider which driver had the lawful right-of-way and whether or not failure to yield right-of-way caused evasive action to avoid an accident, or resulted in an accident. The court should disregard whether or not a collision actually occurred and which vehicle first struck the other: this is not necessary to support a finding of responsibility.

F. General Rules for Determining Who Has the Right-of-Way

1. "The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway." MCL 257.649(1); MSA 9.2349(1).
2. "When 2 vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right." MCL 257.649(2); MSA 9.2349(2).
3. Exception: "The driver of a vehicle traveling at an unlawful speed shall forfeit a right of way which the driver might otherwise have. . . ." MCL 257.649(5); MSA 9.2349(5).

In Michigan, there is no right-of-way shift (in some states, if one driver forfeits the right-of-way, the other driver automatically gains it).

However, these rules are modified at through highways and at controlled intersections (signed or signaled).

G. Intersections

Intersections are the points at which major and/or minor routes converge. The presence or absence of traffic control devices at a given intersection is based on the combination of route types which converge at that intersection. The three combinations of route types are:

1. The intersection of two major routes. The right-of-way is determined by well-developed traffic engineering guidelines, and a traffic signal is used to regulate the flow of traffic.
2. The intersection of a major and minor route. Traffic flow on the minor route will usually be controlled by a stop sign, therefore, giving the major highway the right-of-way.

3. The intersection of two minor routes. At this type of intersection, there are often no traffic control signs or devices. Therefore, it is the task of the court to decide traffic disputes arising out of incidents at uncontrolled intersections.

Traffic engineers decide whether or not to sign an intersection based on complaints by citizens, police or other public officials that a traffic problem exists, and traffic studies involving accident reports, volume counts, and safe approach speeds.

H. Right-of-Way or Failure to Yield Violations:

Right-of-way or failure to yield violations include:

- failing to keep to the right half of the traveled portion of roadway when passing vehicle going in opposite direction, MCL 257.635; MSA 9.2335;
- failing to obey stop, yield, or merge signs, MCL 257.671(3); MSA 9.2371(3);
- failing to stop at stop sign, MCL 257.649(6); MSA 9.2349(6);
- failing to yield at yield sign, MCL 257.649(4); MSA 9.2349(4);
- failing to yield from private drive or alley, MCL 257.652; MSA 9.2352;
- failing to yield to emergency vehicles, MCL 257.653; MSA 9.2353;
- failing to yield to funeral processions, MCL 257.654; MSA 9.2354;
- failing to yield to oncoming traffic when merging onto highway, MCL 257.649(7); MSA 9.2349(7);
- failing to yield to pedestrians, MCL 257.612; MSA 9.2312;
- failing to yield to vehicle on the right at an uncontrolled intersection, MCL 257.649(2); MSA 9.2349(2);
- failing to yield to vehicle that has already entered an intersection, MCL 257.649(1); MSA 9.2349(1); and
- turning left at intersection into oncoming traffic, MCL 257.650; MSA 9.2350.

I. Issues in Case Law for Right-of-Way or Failure to Yield Violations

The driver who has the right-of-way need only exercise reasonable or due care under the circumstances. *Placek v City of Sterling Heights*, 405 Mich 638, 669 (1979).

- Failing to stop at stop sign, MCL 257.649(6); MSA 9.2349(6)

“Where ... a stop sign is placed a considerable distance from the stop intersection, it is generally recognized that the sign serves only to notify motorists of the approaching highway intersection. It does not signify the exact spot at which vehicles are required to stop.” The driver is required by

statute “to stop ‘at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.’ ... He [or she] need only stop within a fair range of points all of which might be found ‘nearest’ the intersection.” *People v McIntosh*, 23 Mich App 412, 415, 417 (1970).

“[T]raffic violations are strict liability offenses, in which the motorist’s negligence or lack of intent to commit the infraction is irrelevant.” *People v Jones*, 132 Mich App 368, 370–71 (1984). Defendant’s inability to stop at a sign due to icy road conditions is irrelevant.

- Failing to yield to emergency vehicles, MCL 257.653; MSA 9.2353

The right-of-way given to an emergency vehicle is narrowly construed. “[T]he driver of an emergency vehicle must proceed ‘with due regard for the safety of all persons using the highway.’ ... What is required is reasonable care for the safety of others under all circumstances.” *Grabowski v Selman*, 25 Mich App 128, 131 (1970).

Other drivers are under a statutory duty to yield the right-of-way to an emergency vehicle. This duty is qualified by explicit statutory language and by judicial construction. “Defendant had a right, under permission of the green light, to cross the intersection unless, by the reasonable exercise of the senses of sight and hearing, he [or she] should have noticed or heard warning to the contrary.” *Keevis v Tookey*, 42 Mich App 283, 287 (1972), citing *City of Lansing v Hathaway*, 280 Mich 87, 89 (1937).

- Failing to yield to funeral processions, MCL 257.654; MSA 9.2354

A special regulation relating to motor vehicles will prevail over a general one. The special statute giving a funeral procession the right-of-way when going to any place of burial prevails over the general statute regulating traffic by traffic-control device. This is true only if the vehicle displays a flag as described in the statute. *Mentel v Monroe Public Schools*, 47 Mich App 467, 469 (1973).

- Failing to yield from private drive or alley, MCL 257.652; MSA 9.2352

The sudden emergency doctrine applies where a person is placed in danger as the result of an unusual or unexpected event such as a sudden icy condition which prevents stopping before entry on a public roadway. Such an event would excuse failure to comply with the statutory requirement that a vehicle come to a full stop before entering a public roadway from a private driveway. *Vsetula v Whitmyer*, 187 Mich App 675, 681 (1991).

- Turning left at intersection into oncoming traffic, MCL 257.650; MSA 9.2350

After entering an intersection under a favorable green light, a driver is not required to stop and wait in the intersection for a change in the traffic light

before completing the turn. However, the driver is required to see that the turn can be done in safety, using due care under all the circumstances. *Neander v Clampett*, 344 Mich 292, 295 (1955).

“[I]t is possible . . . for a left-turning motorist to acquire the right-of-way over oncoming traffic even though the light is green or yellow.” *Donhorst v VanYork*, 23 Mich App 704, 709 (1970).

- Forfeiture of Right-of-Way, MCL 257.649(5); MSA 9.2349(5)

“The apparent legislative intent, ... was to make the forfeiture provision applicable to all right-of-way provisions. ...” *Holloway v Cronk*, 76 Mich App 577, 581 (1977).

Exception: “[T]he forfeiture provision . . . did not apply where a vehicle traveling on a trunk line highway at an unlawful speed collides with a vehicle entering an intersection after stopping at a red flashing signal.” *Sabo v Beatty*, 39 Mich App 560, 563 (1972), citing *Silkworth v Fitzgerald*, 279 Mich 349 (1937).

Exception: The driver on an arterial highway, the favored driver, “has a right to assume that drivers on subordinate highways will yield him [or her] the right of way; he [or she] is not bound to anticipate negligent acts on the part of those approaching the arterial highway. However, he [or she] has the duty and obligation to exercise reasonable care for his [or her] own protection, and simply because he [or she] is on an arterial highway does not mean he [or she] can disregard the rights of others or drive roughshod over those approaching the highway in a reasonable manner. He [or she] has the continuing duty to exercise reasonable care under the circumstances to avoid a collision.” *Noyce v Ross*, 360 Mich 668, 677–78 (1960).

J. Civil Sanctions for Right-of-Way or Failure to Yield Violations

1. Standard civil sanctions for right-of-way or failure to yield violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).

2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

K. Licensing Sanctions for Right-of-Way or Failure to Yield Violations

1. 2 points are assessed for right-of-way or failure to yield violations. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include right-of-way or failure to yield violations. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).
2. Speed violations could also result in the defendant being cited for careless driving and if found responsible, 3 points would be assessed on his or her driver’s license. MCL 257.626b; MSA 9.2326(2); MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i).*

*See Section 2.12, below, for a discussion of the offense of careless driving.

2.7 Safety Belt Violations

These violations include child restraint and safety belt violations. Both child restraint and safety belt violations can be enforced as a primary action. In other words, a driver may be stopped solely because the officer can see that the driver’s child is not properly restrained, or that the driver or front-seat passenger is not wearing his or her safety belt.

A. Child Restraint Violations

1. Child restraint statute

“[E]ach driver transporting a child less than 4 years of age in a motor vehicle shall properly secure that child in a child restraint system that meets the standards prescribed in C.F.R. 571.213. MCL 257.710d(1); MSA 9.2410(4)(1).

Note: Whether a child is properly secured, whether a child restraint system is federally approved, or whether a safety belt is properly adjusted and fastened is determined by the federal motor vehicle safety standards under Title 49 of the Code of Federal Regulations. See 49 CFR 571.

“A person who violates this section is responsible for a civil infraction.” MCL 257.710d(4); MSA 9.2410(4)(4).

“Properly secure” means that children less than 20 pounds (infants) must face the rear. Federal motor vehicle safety standards require the manufacturer to label the car seat and include printed instructions. 49 CFR 571.213, §§5.5–5.6.

Exceptions:

“The Secretary of State may exempt ... a class of children from the requirements of this section, if the Secretary of State determines that the use of the child restraint system ... is impractical because of physical unfitness, a medical problem, or body size. ...” MCL 257.710d(6); MSA 9.2410(4)(6).

“This section does not apply to any child being nursed.” MCL 257.710d(2); MSA 9.2410(4)(2).

“This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulations.” MCL 257.710d(3); MSA 9.2410(4)(3).

B. Elements of a Child Restraint Violation

1. Defendant driver transported a child less than 4 years of age in a motor vehicle;
2. Defendant did not have a federally approved child restraint system, *or*
3. Defendant had a federally approved child restraint system or safety belt in the rear seat, but failed to properly secure the child.

C. Failing to Wear Safety Belt

1. Statute

“Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than 4 years of age shall be protected as required in section 710d. If there are more passengers than safety belts available for use, and all safety belts are being utilized in compliance with this section, the driver of the motor vehicle is in compliance with this section.” MCL 257.710e(3); MSA 9.2410(5)(3).

“Properly adjusted and fastened” is defined by the federal motor vehicle safety standards. 49 CFR 571.208, §4.1.1.3.1(a).

“Each driver of a motor vehicle transporting a child 4 years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, [and] all safety belts ... are being utilized . . ., then the driver ... is in compliance with this subsection, if [the] child is seated in other than the front seat. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.” MCL 257.710e(4); MSA 9.2410(5)(4).

Note: Whether a safety belt is properly adjusted and fastened is determined by the federal motor vehicle safety standards under Title 49 of the Code of Federal Regulations. 49 CFR 571.

“A person who violates this section is responsible for a civil infraction.” MCL 257.710e(7); MSA 9.2410(5)(7).

Exceptions:

This section shall not apply to the driver or passenger of:

- a motor vehicle made before 1965,
- a bus, including a school bus,
- a motorcycle,
- a moped,
- a motor vehicle if the driver or passenger possesses a doctor’s certificate stating that the person is unable to wear a safety belt because of a physical or medical reason,
- a motor vehicle not required to have safety belts,
- a commercial or U.S. postal vehicle that frequently stops for pickup and delivery of goods and services, or
- a motor vehicle operated by a rural carrier for U.S. postal service while working.

MCL 257.710e(1) and (2); MSA 9.2410(5)(1) and (2).

Note: Recent legislation allows for primary enforcement of seat-belt violations. See 1999 PA 29. However, “[i]f after December 31, 2005 the office of highway safety planning certifies that there has been less than 80% compliance with the safety belt requirements. . .during the preceding year,” then the safety belt law may once again only be enforced as a secondary action. See MCL 257.710e(5); MSA 9.2410(5)(5), as amended.

D. Elements of “Failing to Wear Safety Belt ”

This statute establishes a civil infraction that may be committed 3 ways:

a. driver fails to wear safety belt

1. Defendant driver operated a motor vehicle on a street or highway; and
2. Defendant failed to wear a properly adjusted and fastened safety belt.

or

b. front seat passenger fails to wear safety belt

1. Defendant, a front seat passenger, rode in a motor vehicle operated on a street of highway; and
2. Defendant failed to wear a properly adjusted and fastened safety belt.

or

c. driver fails to secure child who is 4 years or more, but less than 16 years

1. Defendant driver transported a child 4 years of age but less than 16 years of age in a motor vehicle; and
2. Defendant failed to secure the child in a properly adjusted and fastened safety belt.

E. Civil Sanctions for Safety Belt Violations

1. Standard civil sanctions for safety belt violations

Assessments include:

- \$5 for the Michigan Justice Training Fund,
- \$5 for the Highway Safety Fund, and

- \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

2. Special civil sanctions for safety belt violations

a. child restraint violations

The civil fine for child restraint violations shall not exceed \$10 plus costs. MCL 257.907(2); MSA 9.2607(2).

Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).

The court shall waive the civil fine and costs if the defendant, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a proper child seating system. MCL 257.907(12); MSA 9.2607(12).

b. failing to wear a safety belt

The civil fine and costs for failing to wear safety belt shall be \$25.00. MCL 257.907(2); MSA 9.2607(2).

F. Licensing Sanctions for Safety Belt Violations

No points. The finding of responsibility is not reported to the Secretary of State unless the defendant fails to comply with an order or judgment issued by the court. MCL 257.710d(5) and .710d(13); MSA 9.2410(4)(5) and .2410(5)(13).

2.8 Speed Violations

The purpose of speed control is to move as many vehicles as possible safely and to promote uniform vehicular speeds.

In Michigan, there are three types of speed laws:

1. basic speed laws,
2. absolute speed laws, and
3. prima facie speed laws.

A. Basic Speed Laws

“A person driving a vehicle on a highway shall drive at a careful and prudent speed not greater than nor less than is reasonable and proper, having due

regard to the traffic, surface, and width of the highway and of any other condition then existing. A person shall not drive a vehicle upon a highway at a speed greater than that which will permit a stop within the assured, clear distance ahead.” MCL 257.627(1); MSA 9.2327(1).

The statute identifies two concepts: careful and prudent speed and assured clear distance ahead. Underlying the concept of careful and prudent speed is the premise of ordinary care, e.g., the rate of speed that the average person would conclude to be proper, considering all conditions. The court should consider these conditions in rendering a decision. Some of the considerations include:

- weather (rain, wind, snow, etc.),
- time of day (day or night),
- road surface (rough, wet, icy, etc.),
- sight limitations (hills, curves, parked cars, etc.),
- traffic volume (pedestrians, other types of vehicles), and
- vehicle type (stopping distance, or braking capacity).

The concept of assured clear distance ahead is typically applied to accident cases because the collision itself is evidence of the inability to stop within a clear distance ahead. The ability to stop as a measurement of speed is contingent on several factors, including:

- driver’s perception and reaction time,
- road surface conditions, and
- the vehicle’s braking capacity.

1. Careful and prudent speed, MCL 257.627(1); MSA 9.2327(1)

- “The rate of speed [of an automobile] must always be reasonable and proper, having due regard to existing conditions at the time and place, the lives and safety of the public being the test.” *Patterson v Wagner*, 204 Mich 593, 602 (1919).
- The driver “must always have regard for the situation, and must drive his [or her] car in a reasonably safe manner so as not to endanger the persons [or] property of others, and if to accomplish this it is necessary to drive at a lesser speed than the maximum provided by statute, he [or she] must do so.” *Bade v Nies*, 239 Mich 37, 39 (1927).
- “Speed may be unreasonably slow as well as unreasonably rapid.” *Szost v Dykman*, 252 Mich 151, 153 (1930).

2. Assured clear distance ahead, MCL 257.627(1); MSA 9.2327(1)

- “The ‘assured clear distance’ rule ... is not confined ... to the ability to observe fixed objects ahead; it includes moving objects as well.” *Buchel v Williams*, 273 Mich 132, 137 (1935).
- The assured clear distance rule also applies when there is a collision with objects not part of the road, but the rule does not apply where the collision is caused by running into a hole or bump in the road. *Marek v City of Alpena*, 258 Mich 637, 642 (1932).
- “[A] driver is not in violation of the assured-clear-distance-ahead rule ... if he [or she] has been driving so as to be able to stop within the assured clear distance ahead but that assured clear distance ahead is suddenly and unexpectedly invaded by another vehicle coming from one side at a time and place such that the first driver cannot avoid a collision with it.” *Hoag v Fenton*, 370 Mich 320, 325–26 (1963), citing *Cole v Barber*, 353 Mich 427 (1958) and *Barner v Kish*, 341 Mich 501 (1954).

3. Doctrine of sudden emergency

- The doctrine of sudden emergency avoids the harshness of the assured clear distance statute. It applies “if there is any evidence which would allow a jury to conclude that an emergency existed within the meaning of that doctrine.” *Wright v Marzolf*, 34 Mich App 612, 613–14 (1971).
- The doctrine of sudden emergency is a limited exception to the rule that a violation of the assured clear distance statute constitutes negligence per se. “Not every difficulty that a motorist encounters is a condition that will[, under the sudden emergency doctrine,] excuse his [or her] liability. The condition must be extraordinary and ‘totally unexpected.’” *Spillars v Simons*, 42 Mich App 101, 105–06 (1972). Another person’s failure to signal for a turn is not an unexpected emergency that would bring into play the doctrine of sudden emergency.
- This is an expression of the doctrine of sudden emergency in its classic form: “One who suddenly finds himself [or herself] in a place of danger, and is required to act without time to consider the best means that may be adopted to avoid the impending danger, is not guilty of negligence if he [or she] fails to adopt what subsequently and upon reflection may appear to have been a better method, unless the emergency in which he [or she] finds himself [or herself] is brought about by his [or her] own negligence.” *Walker v Redbeuhr*, 255 Mich 204, 206 (1931), and *Paton v Stealy*, 272 Mich 57, 62 (1935).

B. Absolute Speed Laws

Absolute speed limits are determined two ways: First, the absolute speed limits may be set by traffic control order as a result of a speed study based on engineering and traffic investigations. This is rare. All absolute speed limits must be set in compliance with statute guidelines (road design features, accident history, pedestrian crossings, etc.) made public record and filed with the county clerk, and posted to put motorists on notice.

Second, the legislature has determined absolute maximum speeds for certain areas and certain motor vehicles. Absolute speed laws do not require special sign posting. If the defendant is charged with violating an absolute speed law, the only question to be answered is whether the defendant was in fact exceeding the absolute speed limit. There is no defense but to argue that the complaining officer did not obtain a valid reading. Examples include:

- 55 mph—all highways where maximum speed limit is not otherwise fixed, MCL 257.628(1); MSA 9.2328(1);
- 45 mph—construction, maintenance, survey, and work areas, MCL 257.627(9); MSA 9.2327(9);
- 65 mph—limited access highway where maximum speed limit of 65 mph is permitted by federal law, MCL 257.628(5); MSA 9.2328(5);
- 55 mph—motor vehicles pulling trailers weighing over 750 lbs, MCL 257.627(5); MSA 9.2327(5);
- 50 mph—school bus (55 mph on a limited access highway or freeway), MCL 257.627(7); MSA 9.2327(7), and MCL 257.627b; MSA 9.2327(2); and
- 55 mph—tractors, trucks, or combinations weighing over 10,000 lbs (35 mph when reduced loads are enforced), MCL 257.627(6); MSA 9.2327(6).

C. Prima Facie Speed Laws

State, county, and local lawmakers are granted authority by statute to set prima facie speed limits on roads maintained by the state transportation commission, the county road commission, the city, or the village. A prima facie speed limit is determined by the legislature, county, or local municipality to be a reasonable and safe maximum or minimum speed. That speed limit is determined to be the reasonable, safe, and prudent speed under conditions found to exist.

Prima facie evidence is evidence that would, if not contested, establish a fact. If it is shown that the defendant exceeded a prima facie speed limit, that showing is sufficient unless the defendant can prove, by a clear preponderance of the evidence, that the local ordinance regulating the speed of motor vehicles is unreasonable. This is different from an absolute speed

limit case in which the only question to answer is whether the defendant was in fact exceeding the absolute speed limit. Example of prima facie speed limits include:

- 25 mph—business districts, residential areas, and public parks, MCL 257.627(2); MSA 9.2327(2);
- 15 mph—mobile home parks, MCL 257.627(4); MSA 9.2327(4); and
- 25 mph—school zones (30 minutes before and after the regularly scheduled school session), MCL 257.627a(2); MSA 9.2327(1)(2).

D. Speed Violations

Speed violations include:

- exceeding authorized speed, MCL 257.628; MSA 9.2328;
- exceeding prima facie or posted speed limit, MCL 257.629; MSA 9.2329;
- exceeding speed limit, MCL 257.627–257.629; MSA 9.2327–9.2329;
- exceeding speed limit in construction zone, MCL 257.627(9); MSA 9.2327(9);
- exceeding speed limit in mobile home park, MCL 257.627(4); MSA 9.2327(4);
- exceeding speed limit in school zone, MCL 257.627a; MSA 9.2327(1);
- exceeding speed limit on limited-access freeway, MCL 257.629c; MSA 9.2329(3);
- exceeding statewide speed limits (day or night), MCL 257.628; MSA 9.2328;
- speeding, energy emergency, MCL 257.629b; MSA 9.2329(2);
- violating basic speed law (driving too fast or too slow), MCL 257.627; MSA 9.2327; and
- violating freeway speed law (driving below minimum speed), MCL 257.628; MSA 9.2328.

E. Elements for a Speed Violation Case

1. Defendant operated a motor vehicle on a highway; and
2. The speed of the motor vehicle was in violation of the MVC; and

3. The violation occurred within the jurisdiction of the officer's authority and within the jurisdiction of the political subdivision that enacted the speed limit (venue).

Additional elements must be established if speed measuring devices were used to determine speed. (See "Evidence in a Speed Case," below.)

F. Civil Sanctions for Speed Violations

1. Standard civil sanctions for speed violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

2. Special civil sanctions for speed violations

The MVC has established a minimum civil fine for violating the maximum speed limit on a limited access freeway on which the maximum speed limit is 55 mph or more:

1–5 mph over—\$10

6–10 mph over—\$20

11–15 mph over—\$30

16–25 mph over—\$40

26 mph or more over—\$50

MCL 257.629c(1); MSA 9.2329(3)(1). However, this schedule does not apply to a person driving a passenger vehicle drawing another vehicle or trailer, or to a person driving a school bus. MCL 257.629c(2); MSA 9.2329(3)(2).

G. Licensing Sanctions for Speed Violations

1. Points

- a. Violation of basic speed law — 2 points

The finding of responsibility is reported to the Secretary of State.

- b. Failure to drive minimum speed — 2 points

“The minimum speed on all freeways shall be 45 miles per hour except if reduced speed is necessary for safe operation” MCL 257.628(5); MSA 9.2328(5).

The finding of responsibility is reported to the Secretary of State.

- c. Speed violations exceeding the lawful maximum:

- by more than 15 mph — 4 points
- by more than 10 mph, but not more than 15 mph — 3 points
- by 10 mph or less — 2 points

MCL 257.320a(1)(e),(i), and (j); MSA 9.2020(1)(1)(e), (i), and (j). The finding of responsibility is reported to the Secretary of State.

Speed violations established by executive order issued during a state of energy emergency have the same point schedule. MCL 257.320a(7); MSA 9.2020(1)(7).

The finding of responsibility is reported to the Secretary of State.

- d. Notwithstanding the assessment of points above, the MVC further sets out a point schedule for violating the maximum speed limit on a limited access freeway that has a maximum speed limit of 55 miles per hour or more:

1–5 mph over—0 points

6–10 mph over—1 points

11–15 mph over—2 points

16–25 mph over—3 points

26 mph or more over—4 points

MCL 257.629c(1); MSA 9.2329(3)(1). The finding of responsibility is reported to the Secretary of State.

*See Section 2.12, below, for a discussion of the offense of careless driving.

- e. Speed violations could also result in the defendant being cited for careless driving and if found responsible, 3 points would be assessed on his or her driver's license. MCL 257.626b; MSA 9.2326(2), and MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i).*

H. Evidence in a Speed Case

Evidence in a speed case may be presented by testimony of the defendant, the complaining officer, or a witness, or by physical evidence. The court must determine whether that evidence is admissible. Although the rules of evidence are not observed in a civil infraction case, the court must still determine whether the evidence is relevant and the witness competent.

“[A]dmissions made by a driver to a police officer are admissible in any court proceeding.” *People v Chandler*, 75 Mich App 585, 590 (1976). See also *Moncrief v Detroit*, 398 Mich 181 (1976).

Frequently, officers will appear in court offering physical evidence used to determine speed. This physical evidence may include speed calculations from speed measurement devices such as radar, laser, and visual average speed computer and recorder (VASCAR). It may also include speed calculations based on the length of skidmarks or tire tracks. Police officers can derive speed estimates based on evidence collected regarding the length of skidmarks or tire tracks, the tire-roadway friction interaction, and the types and condition of roadways (surface grade, wet, dry, etc.). Speed determinations are valid only if the officer had proper training and experience; in questioning the officer, the court should ask about this.

1. Estimates of speed

“[A witness] need not qualify as an expert in order to testify as to matters one learns through ordinary observation, such as the rate of speed at which a vehicle is going, provided a witness is fully interrogated as to the knowledge upon which his [or her] judgment is based” *Hicks v Bacon*, 26 Mich App 487, 493 (1970), citing *Stehouwer v Lewis*, 249 Mich 76, 81 (1929).

“An opinion of the speed of a vehicle based on sound alone is properly excluded.” *Green v Richardson*, 69 Mich App 133, 140 (1976).

The testimony of the investigating officer must include “a sufficient basis and connecting link between the tire tracks and defendant's car to render admissible testimony concerning

tracks observed” *Wilhelm v Skiffington*, 360 Mich 348, 351 (1960).

The competency of testimony as to speed is not determined by specific distance or time but by causal connection or contact with the accident. *Hicks v Bacon*, 26 Mich App 487, 493 (1970), citing *Bryant v Brown*, 278 Mich 686, 688 (1937).

“[E]stimates of speed based solely on opinions of the force of impact are not admissible. . . .” *Hicks v Bacon*, 26 Mich App 487, 494 (1970), citing *Jackson v Trogan*, 364 Mich 148 (1961), and *Hinderer v Ann Arbor RR Co*, 237 Mich 232 (1927).

2. Speed measuring devices

- Radar

Radar (actually an acronym for “radio detection and ranging”) operates on the Doppler principle...frequency of radio waves change in direct proportion to the speed of an object. It is a radio device that merely detects the presence of a moving object and determines its speed. Radar sends and receives a signal; it can be detected by the driver of the vehicle whose speed is being measured if the driver has a radar detector. See MJJ’s New Magistrate Traffic Adjudication Manual, 2nd Revised Edition, Unit 6, Sections A-F for more discussion.

In a speed case involving moving radar (the officer’s vehicle is moving rather than still), the following seven guidelines must be met in order to allow speed readings from a radar speedmeter into evidence. It must be shown that:

1. The officer operating the device has adequate training and experience in its operation.
2. The radar device was in proper working condition and properly installed in the patrol vehicle at the time of the issuance of the citation.
3. The radar device was used in an area where road conditions are such that there is a minimal possibility of distortion.
4. The input speed of the patrol vehicle was verified and the speedometer of the patrol vehicle was independently calibrated.
5. The speedmeter was retested at the end of the shift in the same manner that it was tested before the shift and the speedmeter was serviced by the manufacturer or other professional as recommended.

6. The particular radar operator was able to establish that the target vehicle was within the operational area of the beam at the time the reading was displayed.
7. The particular unit has been certified for use by an agency with some demonstrable expertise in the area.

People v Ferency, 133 Mich App 526, 542–44 (1984).

- Visual Average Speed Computer and Recorder (VASCAR)

VASCAR operates on the time-distance principle. It is a computer device that allows the officer to enter a precisely measured distance and the time it took the target vehicle to travel that same distance. The computer then calculates the average speed of the target vehicle. VASCAR does not send or receive a signal; therefore, it cannot be detected by the driver of the vehicle whose speed is being measured. See MJJ's New Magistrate Traffic Adjudication Manual, 2nd Revised Edition, Reference Section, pp. 45–54 for more discussion.

There are no appellate cases on the admissibility of VASCAR. Although the rules of evidence are not observed in a civil infraction case, the court must still determine whether the evidence is relevant and the witness competent.

- Laser

Laser is a new speed measuring device. It also operates on the time-distance principle. It emits an invisible infrared light beam that measures both speed and distance. Laser does send and receive a signal, but it is much more difficult to detect than radar.

There are no appellate cases on the admissibility of laser.

Although the rules of evidence are not observed in a civil infraction case, the court must still determine whether the evidence is relevant and the witness competent.

The Michigan Office of Highway Safety Planning established the Michigan Radar Task Force in 1979 and later changed the name to the Michigan Speed Measurement Task Force. They approved "Interim Standards and Specifications for the Procurement of Laser Speed Measurement Devices" in October of 1992. Copies are available from the Michigan Speed Measurement Task Force.

The Michigan Speed Measurement Task Force has also prepared the following interim guidelines for adjudicating speed cases involving laser speed measurement devices:

1. The officer operating the laser speed measurement device must have adequate training and experience in its operation.

2. The laser device must be in proper working condition at the time the speed measurement is obtained. Additionally, across-the-road laser devices must be properly positioned and aligned.
3. The officer using the laser must be able to testify that a down-the-road speed reading was obtained at a distance that was within the operational range for the device.
4. The laser device must be verified in the same manner at the beginning and the end of the shift to ensure that it is in proper working condition, and the device must be serviced by the manufacturer or other professional as recommended.
5. The target vehicle must be properly identified.
6. The particular laser device must have been certified for use in Michigan by the Michigan Speed Measurement Task Force.

As you can see, these guidelines closely resemble those in *People v Ferency*, 133 Mich App 526, 542-544 (1984).

2.9 Stop and Go, Signs and Signals

The state of Michigan has adopted a uniform system of traffic control devices. MCL 257.608; MSA 9.2308. This means, insofar as is practical, that the design, shape, and color scheme of Michigan traffic signs, signals, and guide posts will be uniform with those in other states.

Note: Defendant may argue that a sign was improperly posted, or a signal was improperly placed. Requirements for proper marking and posting are found in the Michigan manual of uniform traffic control devices. It is available from the Michigan Department of Transportation, Traffic and Safety Division.

A. Stop Signs

“Except when directed to proceed by a police officer, the driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection, or if there is not a crosswalk shall stop at a clearly marked stop line; or if there is not a crosswalk or a clearly marked stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After having stopped, the driver shall yield the right of way to a vehicle

which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver would be moving across or within the intersection.”

MCL 257.649(6); MSA 9.2349(6).

“Where ... a stop sign is placed a considerable distance from the stop intersection, it is generally recognized that the sign serves only to notify motorists of the approaching highway intersection. It does not signify the exact spot at which vehicles are required to stop.” The driver is required by statute “to stop ‘at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.’ ... He [or she] need only stop within a fair range of points all of which might be found ‘nearest’ the intersection.” *People v McIntosh*, 23 Mich App 412, 415, 417 (1970).

“[A] stop sign is a direction, not merely a caution, to drivers entering a through street to stop.” *Rife v Colestock*, 297 Mich 194, 197 (1941).

A stop sign is a warning of possible danger at an intersection. It imposes a duty on the driver, before attempting to cross or turn at the intersection, to stop the vehicle at a point from which approaching traffic can be seen. After stopping, the driver has a duty to make proper observation before entering the intersection and to keep the vehicle under control as to enable him or her to stop at once if observation discloses approaching vehicles. The driver stopped at a stop sign must yield the right-of-way to a vehicle approaching on the cross street. *Shoniker v English*, 254 Mich 76, 80–81 (1931).

“The purpose of a stop street is to afford traffic on it a preference. It is the duty of one arriving at such street not only to stop but so to remain until a reasonable opportunity to proceed appears. It would be contrary to all custom, general understanding, and the purpose of a stop street, to hold ... that, after stopping, the driver immediately acquires the right of way as against all vehicles on the stop street which have not reached the intersection.” *Leader v Straver*, 278 Mich 234, 236 (1936).

The driver who is traveling on the favored street or highway may assume that a driver approaching a stop sign will stop. The driver who is traveling on the favored street or highway may act on that assumption unless he or she, in the exercise of reasonable care, has knowledge or reason to believe otherwise. *McGuire v Rabaut*, 354 Mich 230, 234–37 (1958).

“[T]raffic violations are strict liability offenses, in which the motorist’s negligence or lack of intent to commit the infraction is irrelevant.” Defendant’s inability to stop at a sign due to icy road conditions is irrelevant. *People v Jones*, 132 Mich App 368, 370–71 (1984).

B. Traffic Lights or Signals

When traffic is controlled by traffic control lights or signals, at least one light or signal shall be located over the traveled portion of the roadway to give drivers a clear indication of the right-of-way assignment from their normal position approaching the intersection. Traffic lights and signals shall exhibit different colored lights successively, one at a time, or with arrows. MCL 257.612(1); MSA 9.2312(1).

1. Solid Green: “[P]roceed straight through or turn right or left unless a sign at that place prohibits either turn. ... [Y]ield the right of way to other vehicles and pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.” MCL 257.612(1)(a); MSA 9.2312(1)(a).
 - A driver approaching an intersection equipped with a traffic light has a duty to look for the green light and to see that the intersection is clear before attempting to cross. *Travis v Eisenlord*, 256 Mich 264, 266 (1931).
 - The changing of a light from red to green does not authorize a driver to proceed through an intersection without reasonable regard for the circumstances open to his or her view. *Smarinsky v Markowitz*, 265 Mich 412, 414 (1933).
2. Solid Yellow: “[S]top before entering the nearest crosswalk at the intersection or at a limit line when marked, but if the stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.” MCL 257.612(1)(b); MSA 9.2312(1)(b).
3. Solid Red: “[S]top before entering the crosswalk on the near side of the intersection or at a limit line when marked or, if none, before entering the intersection, and . . . remain standing until a green indication is shown” MCL 257.612(1)(c)(i); MSA 9.2312(1)(c)(i).

Exceptions to solid red:

- a. Right turn on solid red: After stopping, the driver may make a right turn from any one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn, unless otherwise prohibited, and yielding the right-of-way to other vehicles and pedestrians lawfully using the intersection. MCL 257.612(1)(c)(ii); MSA 9.2312(1)(c)(ii).
- b. Left turn on solid red: After stopping, the driver may make a left turn from any one-way or two-way street into a one-way street carrying traffic in the direction of the left turn, unless otherwise prohibited, and yielding the right-of-way to other vehicles and pedestrians lawfully using the intersection. MCL 257.612(1)(c)(ii); MSA 9.2312(1)(c)(ii).

4. Flashing Red: “[S]top before entering the nearest crosswalk at an intersection or at a limit line when marked and . . . proceed . . . subject to the rules applicable after making a stop at a stop sign.” MCL 257.614(1)(a); MSA 9.2314(1)(a).
5. Flashing Yellow: “[P]roceed through the intersection or past the signal only with caution.” MCL 257.614(1)(b); MSA 9.2314(1)(b).
6. Red and Yellow Arrows: “Red arrow and yellow arrow indications have the same meaning as the corresponding circular indications, except that they apply only to drivers of vehicles intending to make the movement indicated by the arrow.” MCL 257.612(1); MSA 9.2312(1).

C. Stop and Go, Sign and Signal Violations

Stop and go, sign and signal violations include:

- disregarding stop sign, MCL 257.649; MSA 9.2349;
- disregarding flashing red or flashing yellow signal, MCL 257.614; MSA 9.2314;
- disregarding yellow or amber signal, MCL 257.612; MSA 9.2312;
- disregarding stop and go light, MCL 257.612; MSA 9.2312;
- right turn on red light without stopping, MCL 257.612; MSA 9.2312;
- avoiding traffic control device, MCL 257.611; MSA 9.2311; and
- failing to stop leaving private drive, MCL 257.652; MSA 9.2352.

D. Civil Sanctions for Stop and Go, Sign and Signal Violations

1. Standard civil sanctions for stop and go, sign and signal violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).

2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

E. Licensing Sanctions for Stop and Go, Sign and Signal Violations

1. 3 points. Disobeying a traffic signal or stop sign is a three point violation. The finding of responsibility is reported to the Secretary of State. MCL 257.320a(1)(k); MSA 9.2020(1)(1)(k).

However, 2 points are assessed for avoiding traffic control devices and failing to stop leaving a private driveway. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include these violations. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).

2. Stop and go, sign and signal violations could also result in the defendant being cited for careless driving and if found responsible, 3 points would be assessed on his or her driver’s license. MCL 257.626b; MSA 9.2326(2), and MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i).*

*See Section 2.12, below, for a discussion of the offense of careless driving.

2.10 Turning and Signaling

Turning at street corners and intersections requires greater caution on the part of the driver than on less congested places on the streets and highways. The driver must use an appropriate signal (hand and arm, or mechanical or electrical device) visible to approaching drivers, both in oncoming vehicles and those approaching from the rear. Both the driver negotiating a turn and the driver of any approaching vehicle should use care commensurate with the obvious conditions regardless of which has the right-of-way when making the turn. *Benson v Tucker*, 252 Mich 385, 187 (1930).

A. Right turn

General rule: “Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of roadway.” MCL 257.647(1)(a); MSA 9.2347(1)(a).

However, local authorities may place markers, signs, or signals that require and direct a different course for the approach and turn

than that specified in this section. MCL 257.647(1)(e); MSA 9.2347(1)(e).

B. Left turn

General rule: “Approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line ... and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.” MCL 257.647(1)(b); MSA 9.2347(1)(b).

From a two-way to a one-way: “Approach for a left turn ... shall be made in that portion of the right half of the roadway nearest the center line ... and by passing to the right of the center line where it enters the intersection.” MCL 257.647(1)(c); MSA 9.2347(1)(c).

From a one-way to a two-way: “Approach for a left turn ... shall be made as close as practical to the left curb or edge of the roadway and by passing to the right of the center line of the roadway being entered.” MCL 257.647(1)(c); MSA 9.2347(1)(c).

From a one-way to a one-way: “[B]oth the approach for a left turn and a left turn shall be made as close as practical to the left-hand curb or edge of the roadway.” MCL 257.647(1)(d); MSA 9.2347(1)(d).

Local authorities may place markers, signs, or signals that require and direct a different course for the approach and turn than that specified in this section. MCL 257.647(1)(e); MSA 9.2347(1)(e).

The Court of Appeals in *Lindsley v Burke* held that when one driver signals another to proceed, it is a question of fact whether the signaling driver is merely waiving his or her right-of-way or is indicating that all is clear ahead. This decision overruled *Peka v Boose*, 172 Mich App 139, 143 (1988), which held that a hand motion signified nothing more than permission to cross in front of the signaling driver’s car and could not be relied on as assurance that all was clear ahead. A later case, *Kerr v Southeastern Michigan Transit Authority*, unpublished opinion (No 130292, 7/17/91), said it preferred the reasoning of *Peka*, but that it would follow *Lindsley* as required by AO 1990-6. *Lindsley v Burke*, 189 Mich App 700, 704–05 (1991).

F. Signal Requirements for Turning

“The driver of a vehicle ... upon a highway, before stopping or turning from a direct line, shall first see that the stopping or turning can be made in safety and shall give a signal as required in this section.” MCL 257.648(1); MSA 9.2348(1).

Note: The statute seems to leave room for broad interpretation of the word “turning” by adding “from a direct line.” Although there is no case law, the court could possibly interpret this to include a signaling requirement for lane change. It is impossible to change lanes without turning from a direct line.

“A signal required in this section shall be given either by means of the hand and arm ... or by a mechanical or electrical signal device which conveys an intelligible signal or warning to other highway traffic[.]” MCL 257.648(2); MSA 9.2348(2).

The appropriate arm signals include:

1. Left turn—hand and arm extended horizontally
2. Right turn—hand and arm extended upward
3. Stop or decrease speed—hand and arm extended downward

MCL 257.648(2)(a)–(c); MSA 9.2348(2)(a)–(c).

G. Turning and Signaling Violations

Turning and signaling violations include:

- failing to signal, improper signal, MCL 257.648; MSA 9.2348;
- improper or prohibited right or left turn, MCL 257.647; MSA 9.2347, and MCL 257.648; MSA 9.2348;
- improper turn from wrong lane, MCL 257.647; MSA 9.2347;
- left turn in front of moving traffic, MCL 257.650; MSA 9.2350;
- limited access highway, driving across median, MCL 257.644; MSA 9.2344; and
- prohibited turn on red after stop, MCL 257.612(1)(c)(ii); MSA 9.2312(1)(c)(ii).

H. Civil Sanctions for Turning and Signaling Violations

1. Standard civil sanctions for turning and signaling violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

I. Licensing Sanctions for Turning and Signaling Violations:

1. 2 points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include turning and signaling violations. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).
2. Turning and signaling violations could also result in the defendant being cited for careless driving and if found responsible, 3 points would be assessed on his or her driver’s license. MCL 257.626b; MSA 9.2326(2), and MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i).*

*See Section 2.12, below, for a discussion of the offense of careless driving.

2.11 Wrong Side or Wrong Way

A. “Keep to the Right” Rule

With certain exceptions, a driver has a statutory duty to drive on the right half of the highway; however, the statute must be applied in a reasonable manner considering all related facts and circumstances. MCL 257.634; MSA 9.2334.

A motor vehicle must be driven on the right half of the roadway except as follows:

- When overtaking or passing another vehicle, MCL 257.634(1)(a); MSA 9.2334(1)(a);
- When the right half is closed due to construction, repair, or obstruction, MCL 257.634(1)(b); MSA 9.2334(1)(b);

- When a vehicle operated by state or local government, or its agent, is engaged in work on the roadway, MCL 257.634(1)(c); MSA 9.2334(1)(c);
- On a roadway divided into 3 marked lanes for traffic, MCL 257.634(1)(d); MSA 9.2334(1)(d), and MCL 257.642; MSA 9.2342; or
- On a one-way roadway, MCL 257.634(2); MSA 9.2334(2).

B. Exceptions to the “Keep to the Right” Rule:

A defendant may justify driving on the wrong side of the road by showing that the other side was practically impassable or appeared unsafe, the vehicle skidded, or there was a sudden emergency:

1. The other side was practically impassable or appeared unsafe.

A driver may drive on the wrong side of the road, around parked cars, provided he or she exercises reasonable care in doing so. *Rosen v Beh*, 272 Mich 487, 492 (1935).

Because of construction and resurfacing operations, directions were given by a watchman diverting traffic to use the portion of a road normally used by traffic in the opposite direction. *Smith v Whitehead*, 342 Mich 542, 544, 546 (1955).

2. The vehicle skidded.

A driver may be excused from compliance with the statutes requiring him or her to keep to the right side of the highway where he or she is driving at a prudent speed for icy conditions and suddenly hits a patch of ice causing the automobile to skid across the center line. *Young v Flood*, 182 Mich 538, 544 (1990).

3. There was a sudden emergency.

The sudden emergency doctrine applies where the driver is confronted with a situation that is “unusual” or “unsuspected.” “Unusual” means different from the everyday traffic routine confronting a motorist. “Unsuspected” means appearing so suddenly that the normal expectations of due and ordinary care are modified. *Vander Laan v Miedema*, 385 Mich 226, 231–32 (1980).

Icy patches on Michigan roads can be unsuspected. *Young v Flood*, 182 Mich App 538, 543 (1990).

The defendant suddenly fainted or became unconscious immediately before driving on the wrong side of the road, so that the car moving to the wrong side of the road was not a voluntary act. However, if the driver had reason to believe that he or she

would faint or become unconscious, the condition, or feeling, would be closely analogous to a driver continuing to drive while being in a sleepy condition. *Soule v Grimshaw*, 266 Mich 117, 119–20 (1934).

C. One-Way and Two-Way Traffic

“[A] roadway designated and signposted for 1-way traffic shall be driven only in the direction designated.” MCL 257.641(2); MSA 9.2341(2).

“Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other not less than 1/2 of the main traveled portion of the roadway as nearly as possible.” MCL 257.635; MSA 9.2335.

When traveling at night on an unmarked road, it is the duty of the driver to make a reasonable allowance for possible inaccuracy in judgment as to where the median line is located and whether the driver’s vehicle is entirely on the proper side of the road. *Lijewski v Wrzesinski*, 328 Mich 129, 135–36 (1950).

D. Wrong Side or Wrong Way Violations

Wrong side or wrong way violations include:

- driving on the wrong side of divided highway, MCL 257.644; MSA 9.2344;
- driving on wrong side of undivided highway, MCL 257.642; MSA 9.2432;
- driving the wrong way on a one-way road, MCL 257.641; MSA 9.2341;
- entering freeway improperly, MCL 257.645; MSA 9.2345;
- failure to keep to the right, MCL 257.634; MSA 9.2334; and
- failing to keep to the right half of the roadway when passing vehicle going in opposite direction, MCL 257.635; MSA 9.2335.

E. Civil Sanctions for Wrong Side or Wrong Way Violations

1. Standard civil sanctions for wrong side or wrong way violations

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

F. Licensing Sanctions for Wrong Side or Wrong Way Violations

1. 2 points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include wrong side or wrong way violations. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).
2. Wrong side or wrong way violations could also result in the defendant being cited for careless driving and if found responsible, 3 points would be assessed on his or her driver’s license. MCL 257.626b; MSA 9.2326(2), and MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i).*

*See Section 2.12, below, for a discussion of the offense of careless driving.

2.12 Careless Driving

A. Statute

“A person who operates a vehicle upon a highway or a frozen public lake, stream or pond or other place open to the general public including an area designated for the parking of vehicles in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, is responsible for a civil infraction.”

MCL 257.626b; MSA 9.2326(2).

B. Elements

1. Defendant operated a vehicle on a highway, a frozen public lake, stream, or pond, or other place open to the general public, including parking areas, and
2. Defendant operated the vehicle in a careless or negligent manner.

C. Civil Sanctions

1. Standard civil sanctions for careless driving

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

3 points. The finding of responsibility is reported to the Secretary of State. MCL 257.320a(1)(i); MSA 9.2020(1)(1)(i).

E. Issues

Reckless driving is a misdemeanor offense. MCL 257.626; MSA 9.2326.*

The difference between reckless driving, a misdemeanor, and careless driving, a civil infraction, is the degree of negligence. The court should

*See Section 3.45.

consider the manner of operating the vehicle, not that which results. Reckless driving requires gross negligence; it is defined as driving in “wilful or wanton disregard for the safety of persons or property.” Careless driving requires ordinary negligence, it is defined as operating a motor vehicle in a “negligent manner likely to endanger any person or property, but without wantonness or recklessness.” MCL 257.626(a); MSA 9.2326(a), and MCL 257.626b; MSA 9.2326(2).

Note: If the prosecuting attorney, in a plea bargain, decides to reduce the charge from reckless driving to careless driving, it is necessary to dismiss the misdemeanor charge and to have another citation issued for a civil infraction to which the defendant will then plead responsible.

2.13 Coasting

A. Statute

“The driver of a motor vehicle when traveling upon a down grade shall not coast with the gears of the vehicle in neutral.” MCL 257.678(1); MSA 9.2378(1).

“A person who violates this section is responsible for a civil infraction.” MCL 257.678(3); MSA 9.2378(3).

B. Elements

1. Defendant drove a motor vehicle on a down grade; and
2. At that time, defendant coasted with the gears of the vehicle in neutral.

C. Civil Sanctions

1. Standard civil sanctions for coasting

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain

periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).

2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

2 points. The finding of responsibility is reported to the Secretary of State . In assessing points the Secretary of State has interpreted “[a]ll other moving violations to include coasting. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).

E. Issues

To show a violation of the coasting provision it is essential to prove that the gears of the defendant’s car were in neutral. To show that defendant took his or her foot off the accelerator is not sufficient. *Flynn v Kramer*, 271 Mich 500, 506 (1935).

2.14 Driving Over Fire Hose

A. Statute

“A streetcar or vehicle shall not be driven over an unprotected hose of a fire department when laid down on a street, private driveway, or streetcar track, to be used at a fire or alarm of fire, without the consent of the fire department official in command.” MCL 257.680(1); MSA 9.2380(1).

“A person who violates this section is responsible for a civil infraction.” MCL 257.680(3); MSA 9.2380(3).

B. Elements

1. Defendant drove a vehicle over an unprotected fire hose; and
2. Defendant did so without the consent of the fire department official in command.

C. Civil Sanctions

1. Standard civil sanctions for driving over fire hose

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

2 points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include driving over a fire hose. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).

E. Issues

Obstructing or disobeying a fireman is a crime under the Michigan Penal Code. First, it is a felony for any person to knowingly and willfully hinder, obstruct, endanger, or interfere with any fireman in the performance of his or her duties. Second, it is a misdemeanor for any person to disobey any reasonable order or rule of the commanding officer of any fire department at a fire, whether given by the commanding officer or by a fireman at the fire. MCL 750.241(1)–(2); MSA 28.438(1)–(2).

2.15 Failing to Change Address on Registration or Title

A. Statute

“If a person, after making application for or obtaining the registration of a vehicle or a certificate of title, moves from the address named in the application as shown upon a registration certificate or certificate of title, the person within 10 days after moving shall notify the Secretary of State in writing of the old and new addresses.” MCL 257.228(1); MSA 9.1928(1).

“A person who violates this section is responsible for a civil infraction.” MCL 257.228(2); MSA 9.1928(2).

B. Elements

1. Defendant applied for and received his or her vehicle registration certificate or a certificate of title;
2. Defendant moved from the address named in the application as shown on the registration certificate or certificate of title; and
3. After moving, defendant failed to notify the Secretary of State in writing of the old and new addresses within 10 days.

C. Civil Sanctions

1. Standard civil sanctions for failing to change address on registration or title

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

No points. The finding of responsibility is not reported to the Secretary of State unless the defendant fails to appear or fails to comply with an order or judgment issued by the court. MCL 257.732(15)(b); MSA 9.2432(15)(b).

E. Issues

See Section 2.22 for the offense of Failing to Change Address on Driver's License. MCL 257.315(3); MSA 9.2015(3).

2.16 Failing to Stop for School Bus

A. Statute

“The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying 2 alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than is reasonable and proper but not greater than 10 miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this subsection, who passes a school bus in violation of this subsection, or who fails to stop for a school bus in violation of an ordinance that complies with this subsection, is responsible for a civil infraction.”

MCL 257.682(1); MSA 9.2382(1).

B. Exception

If the highway “has been divided into 2 roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic,” and if the driver meets the school bus which has stopped across the dividing space, barrier, or section, he or she is not required to stop. MCL 257.682(2); MSA 9.2382(2).

C. Elements

1. Defendant drove a vehicle that was overtaking or meeting a school bus;
2. The school bus had stopped and displayed 2 alternately flashing red lights located at the same level;
3. Defendant failed to bring his or her vehicle to a full stop, not less than 20 feet from the school bus, or defendant proceeded to pass the school bus before it resumed motion or inactivated its visual signals; and
4. The school bus was not across a dividing space, barrier, or section thereby not requiring defendant to stop.

D. Civil Sanctions

1. Standard civil sanctions for failing to stop for a school bus

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

2. Special civil sanction provisions for failing to stop for a school bus

In addition to the civil fines and costs, the defendant may be ordered to perform community service at a school not to exceed 100 hours for failing to stop for a school bus. MCL 257.682(4); MSA 9.2382(4).

E. Licensing Sanctions

3 points. The conviction is reported to the Secretary of State. MCL 257.320a(1)(k); MSA 9.2020(1)(1)(k).

2.17 Following a Fire Truck Too Closely

A. Statute

“The driver of a vehicle other than a vehicle on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park the vehicle within 500 feet where fire apparatus has stopped in answer to a fire alarm.” MCL 257.679(1); MSA 9.2379(1).

“A person who violates this section is responsible for a civil infraction.” MCL 257.679(2); MSA 9.2379(2).

B. Elements

1. Defendant drove a vehicle, other than a vehicle on official business;
2. Defendant followed, drove into, or parked the vehicle, within 500 feet of a fire apparatus; and
3. The fire apparatus was traveling in response to a fire alarm or was stopped in answer to a fire alarm.

C. Civil Sanctions

1. Standard civil sanctions for following a fire truck too closely

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2). Fines for moving violations are doubled if the violation occurs in a construction zone, in a school zone (during certain periods), or at an emergency scene. See MCL 257.601b; MSA 9.2301(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

2 points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include following a fire truck too closely. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).

However, the statute says “shall not follow ... or park.” “Following” is reported to the Secretary of State; “parking” is not. MCL 257.679; MSA 9.2379, and MCL 257.732(15)(a); MSA 9.2432(15)(a).

2.18 Interference with View, Control, or Operation of Vehicle

A. Statute

“A person shall not drive a vehicle when it is loaded, or when there are in the front seat a number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver’s control over the driving mechanism of the vehicle.” MCL 257.677(1); MSA 9.2377(1).

“A passenger in a vehicle or a streetcar shall not ride in a position as to interfere with the driver’s or operator’s view ahead or to the sides, or to interfere with the driver’s or operator’s control over the driving mechanism of the vehicle or streetcar.” MCL 257.677(2); MSA 9.2377(2).

“A person who violates this section is responsible for a civil infraction.” MCL 257.677(3); MSA 9.2377(3).

B. Elements

This statute establishes a civil infraction that can be committed several ways:

1. Defendant drove a vehicle that was loaded with things or people that:
 - obstructed his or her view to the front or sides, or
 - interfered with his or her control over the driving mechanism.

or
2. Defendant was a passenger in a vehicle or streetcar who:
 - obstructed the driver's view to the front or sides, or
 - interfered with the driver's control over the driving mechanism.

C. Civil Sanctions

1. Standard civil sanctions for interference with view, control or operation of vehicle

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

2 points. The finding of responsibility is reported to the Secretary of State. In assessing points, the Secretary of State has interpreted “[a]ll other moving violations” to include interference with view, control, or operating of vehicle. MCL 257.320a(1)(n); MSA 9.2020(1)(1)(n).

2.19 No Proof of Insurance

A. Statute

“The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the highways of this state or the operator of the motor vehicle shall produce ..., upon the request of a police officer, evidence that the motor vehicle is insured An owner or operator of a motor vehicle who fails to produce evidence of insurance under this subsection when requested to produce that evidence or who fails to have motor vehicle insurance for the vehicle is responsible for a civil infraction.”

MCL 257.328(1); MSA 9.2028(1).

B. Elements

1. Defendant owned and operated, or operated, or allowed another to operate a motor vehicle on the highway;
2. Defendant was asked by a police officer to produce evidence of insurance for the motor vehicle he or she owned or operated; and
3. Defendant failed to produce evidence of insurance.

C. Civil Sanctions

1. Standard civil sanctions for no proof of insurance

Fine, costs, and, assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine

shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).

2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).

3. Assessments include:

- \$5 for the Michigan Justice Training Fund,
- \$5 for the Highway Safety Fund, and
- \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

2. Special civil sanction provisions for no proof of insurance

Surrender of defendant's license may be required by the court. If so, the court shall order the license suspended and forward the surrendered license. "The court shall immediately destroy the license and shall forward to the secretary of state an abstract of the court record. . . ." MCL 257.328(3); MSA 9.2028(3).

In other words, if the defendant still has no insurance at the time of his or her court appearance, the court may require the defendant to surrender his or her license. If so, the court shall order suspension of defendant's license for a period of 30 days (to begin the date defendant is determined to be responsible for the civil infraction) or until proof of insurance is submitted to the Secretary of State along with a \$25.00 service fee, whichever occurs later. MCL 257.328(3); MSA 9.2028(3).

D. Licensing Sanctions

1. No points, but the finding of responsibility is reported to the Secretary of State. MCL 257.328(6); MSA 9.2028(6).
2. If suspension of defendant's license is ordered by the court, it shall be for a period of 30 days (to begin the date defendant is determined to be responsible for the civil infraction) or until proof of insurance is submitted to the Secretary of State along with a \$25.00 service fee, whichever occurs later. MCL 257.328(3); MSA 9.2028(3).

E. Issues

There are 4 different offenses in Michigan dealing with an owner's obligation to have no-fault automobile insurance. Because these offenses are often confused with one another, they are listed here in order of severity:

1. Failing to Produce Evidence of Insurance is a civil infraction under MCL 257.328(1); MSA 9.2028(1).
2. Forging Proof of Insurance is a 90-day misdemeanor under MCL 257.905; MSA 9.2605.
3. Producing False Evidence of Insurance is a 1-year misdemeanor under MCL 257.328(5); MSA 9.2028(5).
4. Operating a Motor Vehicle Without Insurance is a 1-year misdemeanor under MCL 500.3102(2); MSA 24.13102(2).

2.20 No Proof of Registration

A. Statute

“Upon receipt of a registration certificate, the owner shall write his or her signature thereon with pen and ink in the space provided. A registration certificate shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of the vehicle, who shall display the registration certificate upon demand of a police officer.” MCL 257.223(1); MSA 9.1923(1).

“A person who violates this section is responsible for a civil infraction.” MCL 257.223(2); MSA 9.1923(2).

B. Elements

This statute creates a civil infraction that can be committed several ways:

a. defendant owner

1. Defendant owner received his or her vehicle registration certificate; and
2. Defendant failed to:
 - write his or her signature with pen and ink on the certificate in the space provided, or
 - carry the certificate in the vehicle to which it refers, or on his or her person if he or she was driving or in control of the vehicle, or
 - display the certificate on demand of a police officer.

or

b. defendant driver, or defendant in control of vehicle, but not owner

1. Defendant drove or was in control of a vehicle; and

2. Defendant failed to:

- carry the certificate in the vehicle to which it refers, or on his or her person, or
- display the certificate on demand of a police officer.

C. Civil Sanctions

1. Standard civil sanctions for no proof of registration

Fine, costs, and assessments. Each district court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the district. The state court administrator shall annually publish and distribute to the district courts a recommended range of civil fines and costs for first-time civil infractions. It is not binding on the courts, but is intended as a guide. MCL 257.907(7)–(8); MSA 9.2607(7)–(8).

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

2. Special civil sanction provisions for no proof of registration

The court shall waive the civil fine and costs on receipt of certification by a law enforcement agency that the defendant, before the appearance date on the citation, has produced a valid registration certificate that was valid on the date the violation occurred. MCL 257.907(14); MSA 9.2607(14).

D. Licensing Sanctions

No points. The finding of responsibility is not reported to the Secretary of State unless the defendant fails to appear or fails to comply with an order or judgment issued by the court. MCL 257.732(15)(b); MSA 9.2432(15)(b).

2.21 Operating a Vehicle in Violation of Graduated Licensing Requirements

In 1996, the legislature passed Public Act 387, which completely redesigned the driver education and licensing system for young and first-time drivers. The new statute created a graduated licensing system, shifted most of the responsibility for training drivers to commercial driver training schools, and eliminated the requirements that school districts offer driver education courses.

The new statute also decriminalized these provisions by providing that a person who violates these requirements is responsible for a civil infraction. MCL 257.310e(11) and (14); MSA 9.2010(5)(11) and (14).

A. Statute

- Level 1 graduated licenses:

“A person who is not less than 14 years and 9 months of age may be issued a level 1 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

“(a) Passed a vision test and met health standards as prescribed by the secretary of state.

“(b) Successfully completed segment 1 of a driver education course approved by the department of education including a minimum of 6 hours of on-the-road driving time with the instructor.

“(c) Received written approval of a parent or legal guardian.”

MCL 257.310e(3); MSA 9.2010(5)(3).

“A person issued a level 1 graduated licensing status may operate a motor vehicle only when accompanied either by a licensed parent or legal guardian or, with the permission of the parent or legal guardian, a licensed driver 21 years of age or older. Except as otherwise provided in this section, a person is restricted to operating a motor vehicle with a level 1 graduated licensing status for not less than 6 months.”

MCL 257.310e(4); MSA 9.2010(5)(4).

- Level 2 graduated licenses

“A person may be issued a level 2 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

“(a) Had a level 1 graduated licensing status for not less than 6 months.

“(b) Successfully completed segment 2 of a driver education course approved by the department of education.

“(c) Not incurred a moving violation resulting in a conviction or civil infraction determination or been involved in an accident for which the official police report indicates a moving violation on the part of the person during the 90-day period immediately preceding application.

“(d) Presented a certification by the parent or guardian that he or she, accompanied by his or her licensed parent or legal guardian or, with permission of the parent or legal guardian, any licensed driver 21 years of age or older, has accumulated a total of not less than 50 hours of behind-the-wheel experience including not less than 10 nighttime hours.

“(e) Successfully completed a secretary of state approved performance road test. The secretary of state may enter into an agreement with another public or private person or agency, including a city, village, or township, to conduct this performance road test. This subdivision applies to a person 16 years of age or over only if the person has satisfied subdivisions (a), (b), (c), and (d).”

MCL 257.310e(5); MSA 9.2010(5)(5).

“(6) A person issued a level 2 graduated licensing status under subsection (5) shall remain at level 2 for not less than 6 months and shall not operate a motor vehicle within this state from midnight to 5 a.m. unless accompanied by a parent or legal guardian or a licensed driver over the age of 21 designated by the parent or legal guardian, or except when going to or from employment.”

MCL 257.310e(6); MSA 9.2010(5)(6).

- Operating without a graduated license in possession

“(14) A person shall have his or her graduated licensing status in his or her immediate possession at all times when operating a motor vehicle, and shall display the card upon demand of a police officer. A person who violates this subsection is responsible for a civil infraction.”

MCL 257.310e(14); MSA 9.2010(5)(14).

B. Elements

- Operating in violation of level 1 licensing requirements

1. Defendant was issued a level 1 graduated license.

2. Defendant operated a vehicle while unaccompanied by a licensed parent or legal guardian or by a licensed driver over 21 years of age who has been approved by the parent or guardian.

- Operating in violation of level 2 licensing requirements

1. Defendant was issued a level 2 graduated license.

2. Defendant operated a vehicle between 12 midnight and 5:00 a.m. while unaccompanied by a parent or legal guardian, or by a licensed driver over 21 years of age designated by the parent or legal guardian. This section does not apply to persons who are going to or from employment.

- Operating without a graduated license in possession

1. Defendant was issued a level 1 or 2 graduated license.

2. Defendant operated a vehicle without having a graduated license in possession, or refused to display the graduated license to a police officer upon demand.

C. Civil Sanctions

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).

2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).

3. Assessments include:

- \$5 for the Michigan Justice Training Fund,
- \$5 for the Highway Safety Fund, and
- \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

1. 2 points for operating in violation of level 1 or 2 graduated licensing requirements. MCL 257.320a(1)(m); MSA 9.2020(1)(1)(m).

2. 0 points for operating without a graduated license in possession. MCL 257.320a(2); MSA 9.2020(1)(2).

2.22 Failing to Change Address on Driver's License

Effective April 1, 2000, 1999 PA 118 decriminalized this offense. Prior to April 1, 2000, this offense was a 90-day misdemeanor.

A. Statute

“An operator or chauffeur who changes his or her residence before the expiration of a license granted under this chapter shall immediately notify the secretary of state of his or her new residence address.” MCL 257.315(1); MSA 9.2015(1).

“If a person fails to report a change of his or her residence address as required under this section and subsequently there is no response to a notice mailed to the residence address shown by the record of the secretary of state or if the person has provided the secretary of state a mailing address different from his or her residence address and there is no response to a notice mailed to that mailing address, the secretary of state may immediately suspend or revoke his or her license. A person who fails to report a change of his or her residence address is responsible for a civil infraction.” MCL 257.315(3); MSA 9.2015(3).

B. Elements

1. Defendant, a licensed driver, changed his or her residence before the expiration date of his or her driver’s license, and
2. Defendant failed to notify the Secretary of State of the change of his or her residence address.

C. Civil Sanctions

1. As a general rule, if a person is determined to be responsible or responsible with explanation for a civil infraction, the civil fine shall not be more than \$100 plus costs. MCL 257.907(2); MSA 9.2607(2).
2. Costs shall not be less than \$5.00. MCL 257.907(4); MSA 9.2607(4).
3. Assessments include:
 - \$5 for the Michigan Justice Training Fund,
 - \$5 for the Highway Safety Fund, and
 - \$5 for the Secondary Road Patrol and Training Fund.

MCL 257.907(13); MSA 9.2607(13), and MCL 257.629e; MSA 9.2329(5).

D. Licensing Sanctions

No points. The finding of responsibility is not reported to the Secretary of State unless the defendant fails to appear or fails to comply with an order or judgment issued by the court. MCL 257.732(15)(b); MSA 9.2432(15)(b).

E. Issues

Effective April 1, 2000, 1999 PA 118 created the new offense of Reporting a False Address Change to the Secretary of State. MCL 257.315(4) or (5); MSA 9.2015(4) or (5). See Section 3.23 in the Misdemeanor chapter for a summary of that offense.

“Under the Michigan Vehicle Code, the defendant has a duty to show a correct address on his [or her] operator’s license. This duty exists even though the time may not have arrived when the license itself needs to be renewed.” *Hamilton v Gordon*, 135 Mich App 289, 294 (1984).